

or place shall be deemed to be in New South Wales, and within the jurisdiction of the court "unless the contrary be shown." That by plain implication means that the venue shall be sufficient, and that the jurisdiction shall be sufficient, unless the contrary is shown. Upon the face of this record the offence is charged to have been committed in Missouri, in the United States of America, and it therefore appears to their Lordships that it is manifestly shown, beyond all possibility of doubt, that the offence charged was an offence which if committed at all, was committed in another country, beyond the jurisdiction of the colony of New South Wales. The result, as it appears to their Lordships, must be that there was no jurisdiction to try the alleged offender for this offence, and that this conviction should be set aside. Their Lordships think it right to add that they are of opinion that, if the wider construction had been applied to the statute and it was supposed that it was intended thereby to comprehend cases so wide as those insisted on at the bar, it would have been beyond the jurisdiction of the colony to enact such a law. Their jurisdiction is confined within their own territories, and the maxim which has been more than once quoted, *extra territorium jus dicenti impune non paretur*, would be applicable to such a case. Lord Wensleydale, when Baron Parke, advising the House of Lords in *Jefferys v. Boosey* (4 H. of L. Cas. 815) expresses the same proposition in very terse language. He says (p. 926): "The legislature has no power over any persons except its own subjects, that is, persons natural-born subjects, or resident, or while they are within the limits of the Kingdom. The legislature can impose no duties except on them; and, when legislating for the benefit of persons, must *prima facie* be considered to mean the benefit of those who owe obedience to our laws, and whose interests the legislature is under a correlative obligation to protect." All crime is local. The jurisdiction over the crime belongs to the country where the crime is committed, and except over her own subjects Her Majesty and the Imperial Legislature have no power whatever. It appears to

their Lordships that the effect of giving the wider interpretation to this statute necessary to sustain this indictment would be to comprehend a great deal more than Her Majesty's subjects; more than any persons who may be within the jurisdiction of the colony by any means whatsoever; and that, therefore, if that construction were given to the statute it would follow as a necessary result that the statute was *ultra vires* of the colonial legislature to pass. Their lordships are far from suggesting that the legislature of the colony did mean to give to themselves so wide a jurisdiction. The more reasonable theory to adopt is, that the language was used subject to the well-known and well-considered limitation, that they were only legislating for those who were actually within their jurisdiction, and within the limits of the colony. For these reasons their Lordships will humbly advise Her Majesty that the judgment of the Supreme Court should be reversed, and that this conviction should be set aside. The respondent must pay the costs of the appeal.

#### EXCHEQUER COURT OF CANADA.

OTTAWA, Sept. 17, 1891.

Before BURBIDGE, J.

THE QUEEN v. MALCOLM.

*Injurious affection of property by construction of public work—Obstruction of access—Right to compensation—Waiver.*

The defendant was the owner of a dwelling house and property fronting on a public highway. In the construction of a Government railway the Crown erected a bridge or over-head crossing on a portion of the highway in such a manner as to obstruct access from such highway to defendant's property, which he had theretofore freely enjoyed.

*Held*, that the defendant was entitled to compensation under the *Government Railways Act* and the *Expropriation Acts*.

*Beckett v. The Midland Railway Company* (L. R. 3 C. P. 82) referred to.

The defendant, and a number of other persons interested in the manner in which the crossing was to be made, met the Chief Engineer of Government Railways and